

APPEAL NO. 040515  
FILED APRIL 26, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 2, 2004. With respect to the single issue before him, the hearing officer determined that the respondent's (claimant) compensable injury of \_\_\_\_\_, extends to and includes injuries to the claimant's bladder, both knees, and the thoracic spine, and also extends to diabetes and hypertension. In its appeal, the appellant (carrier) asserts error in that determination. In his response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

Initially, we will consider the claimant's assertion that the carrier's appeal was untimely filed. Pursuant to Section 410.202(a), a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). The hearing officer's decision was distributed on February 12, 2004, and Texas Workers' Compensation Commission (Commission) records demonstrate that the carrier's Austin representative received the decision on February 13, 2004. In his response, the claimant contends that the 15th day after the date of receipt of the hearing officer's decision was March 8, 2004; however, the 15th day after the date of receipt excluding weekends and holidays listed in Section 662.003 (or February 16, 2004, President's Day and March 2, 2004, Texas Independence Day in this case) was actually March 9, 2004. The carrier's appeal was faxed and mailed to the Commission on March 9, 2004, and therefore, it was timely filed.

The hearing officer did not err in determining that the claimant's compensable injury of \_\_\_\_\_, includes injuries to claimant's bladder, both knees, and the thoracic spine, and also extends to diabetes and hypertension. That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer's extent-of-injury determination is supported by the causation opinions of Dr. J, Dr. T, Dr. A, and Dr. K. The hearing officer was acting within his province as the fact finder in giving more weight to those opinions than to the contrary opinions offered by the carrier's peer review doctors. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to

be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSSELL RAY OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge